

**Town of Georgetown -- Appeal  
Department Order #13-09, Mandatory Shoreland Zoning Act**

**Appeal by Town of Georgetown Exhibit A**  
• **Ordinance adopted by Town (06/15/2)**

# SHORELAND ZONING ORDINANCE

## for the Town of Georgetown, Maine

Approved 9 March 1974  
Amended 23 October 1974  
Amended 6 March 1976  
Amended 26 May 1976

Amended 19 June 1982  
Amended 23 June 1984  
Amended 20 June 1987  
Amended 16 June 1990  
Amended 13 June 1992

Amended 18 November 1993  
Amended 18 June 1994  
Amended 10 June 1995  
Amended 15 June 2002

### Section 1. PURPOSES:

The purposes of this Ordinance are to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to protect commercial fishing and maritime industries; to protect freshwater and coastal wetlands; to control building sites, placement of structures, and land uses; to conserve shore cover and visual as well as actual points of access to inland and coastal waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shoreland areas. Copies of this Ordinance and maps are available at the Town Office.

### Section 2. AUTHORITY:

This Ordinance has been prepared in accordance with the provisions of 38 MRSA Sections 435-449.

### Section 3. APPLICABILITY:

This Ordinance applies to all land areas within 250 feet, horizontal distance, of the normal high water mark of all tidal waters, or upland edge of any coastal or freshwater wetlands as defined in Section 14.A, below.

### Section 4. EFFECTIVE DATE:

This Ordinance shall take effect upon passage and certification of enactment. A certified copy shall be filed with the Sagadahoc County Register of Deeds.

### Section 5. VALIDITY AND SEVERABILITY:

Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance.

### Section 6. CONFLICT WITH OTHER ORDINANCES:

Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other Ordinance, regulation, or statute, the more restrictive provision shall control.

### Section 7. AMENDMENTS:

This Ordinance may be amended by majority vote of the legislative body. Copies of amendments, attested and signed by the Municipal Clerk, shall be submitted to the Commissioner of the Department of Environmental Protection following adoption by the municipal legislative body and shall not be effective unless approved by the Commissioner. If the Commissioner fails to act on any amendment within 45 days of receipt, the amendment is automatically approved. Any application for a permit submitted within the 45-day period shall be governed by the terms of the amendment if such amendment is approved by the Commissioner.

## **Section 8. LAND USE STANDARDS:**

All land use activities shall conform to the following applicable land use standards:

### **A. Agriculture:**

1. All spreading or disposal of manure shall be accomplished in conformance with the Maine Guidelines for Manure and Manure Sludge Disposal on Land, published by the University of Maine Soil and Water Conservation Commission in July 1992.
2. Manure shall not be stored or stockpiled within 75 feet horizontal distance of other water bodies, coastal or freshwater wetlands, or tributary streams. Within five years of the effective date of this Ordinance all manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water. Existing facilities which do not meet the setback requirement may remain, but must meet the no- discharge provision within the above five-year period.
3. Agricultural activities involving tillage of soil greater than 40,000 square feet in surface area, or the spreading, disposal, or storage of manure within the shoreland zone shall require a Soil and Water Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this Ordinance.

NOTE: Assistance in preparing a soil and water conservation plan may be available through the local Soil and Water Conservation District office.

4. There shall be no new tilling of soil within 75 feet horizontal distance of water bodies or coastal wetlands; nor within 25 feet horizontal distance of tributary streams and freshwater wetlands. Operations in existence on the effective date of this Ordinance and not in conformance with this provision may be maintained.
5. After the effective date of this Ordinance, newly established livestock grazing areas shall not be permitted within 75 feet horizontal distance of water bodies or coastal wetlands, nor within 25 feet horizontal distance of tributary streams or freshwater wetlands. Livestock grazing associated with ongoing farm activities that are not in conformance with these setback provisions may continue, provided that such grazing is conducted in accordance with a Soil and Water Conservation Plan.

**B. Wetlands Alteration:** Any filling, grading, lagooning, dredging, other earth moving, and other land use activities between upland edge and extreme low water shall be approved by the Department of Environmental Protection before a permit may be issued by either the Code Enforcement Officer or the Planning Board.

**C. Campgrounds:** Campgrounds shall conform to the minimum requirements imposed under State licensing procedures and the following:

1. Camping areas shall contain a minimum of 5,000 square feet of suitable land, not including roads and driveways, for each site. Land supporting wetland vegetation and land below the normal high-water line of a water body shall not be included in calculating land area per site.
2. The area intended for placement of the recreational vehicle, tent, or shelter and utility and service buildings shall be set back a minimum of 75 feet from the normal high-water line of water bodies, tributary streams, or the upland edge of a wetland.

### **D. Clearing:**

1. In any Resource Protection District the clearing of vegetation shall be limited to that which is necessary for

uses expressly authorized in that district.

2. Except to allow for the development of permitted uses, within 75 feet horizontal distance from any water body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:
  - a. There shall be no cleared opening greater than 250 square feet in the forest canopy as measured from the outer limits of the tree crown. However, a footpath not to exceed 10 feet in width as measured between tree trunks is permitted provided that a cleared line of sight to the water through the buffer strip is not created.
  - b. Selective cutting of trees within the buffer strip is permitted provided that a well-distributed stand of trees and other vegetation is maintained.

The provisions contained in paragraph 2 above shall not apply to those portions of public recreational facilities adjacent to public swimming areas. Cleared areas, however, shall be limited to the minimum area necessary.

3. At distances greater than 75 feet horizontal distance from the normal high-water line of any water body, tributary stream, or the upland edge of a wetland, except to allow for the development of permitted uses, there shall be permitted on any lot, in any 10-year period, selective cutting of not more than 40 percent of the volume of trees 4 inches or more in diameter, measured 4.5 feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the 40 percent calculation. For the purposes of these standards, volume may be considered to be equivalent to basal area.

In no event shall cleared openings for development, including but not limited to principal and accessory structures, driveways, and sewage disposal areas, exceed in the aggregate 25 percent of the lot area or 10,000 square feet, whichever is greater, including land previously developed. This provision shall not apply to the General Development District.

4. Cleared openings legally in existence on the effective date of this Ordinance may be maintained, but shall not be enlarged, except as permitted by this Ordinance.
5. Fields which have reverted primarily to shrubs, trees, or other woody vegetation shall be regulated under the provisions of this section.

#### **E. Erosion and Sedimentation Control:**

1. Filling, grading, lagooning, dredging, earth-moving activities, and other land use activities shall be conducted in such manner as to prevent, to the maximum extent possible, erosion and sedimentation of surface waters. To this end, all construction shall be accomplished in conformance with the erosion prevention provisions of Environmental Quality Handbook; Erosion and Sediment Control, published by the Maine Soil and Water Conservation Commission.
2. The provisions regarding slope of land and the required width between the filter strip of exposed mineral soil and normal high water mark as set forth in Section 8.N.7, below, shall apply to all filling, grading, or other earth-moving activities carried out in the shoreland areas.

**F. Mineral Exploration:** Mineral exploration to determine the nature or extent of mineral resources shall be accomplished by hand sampling, test boring, or other methods which create minimal disturbance. A permit from the Planning Board shall be required for mineral exploration which exceeds the above limitations.

**G. Piers, Docks, Wharves, Breakwaters, Causeways, Marinas, Bridges over 20 feet in Length, and Uses Projecting into Water Bodies and Wetlands:** In addition to Federal and State permits which may be required for such structures and uses, they shall conform to the following:

1. Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
2. The location shall not interfere with developed beach areas.
3. The facility shall be located so as to minimize adverse effects on fisheries.
4. The facility shall be no longer in dimension than is reasonably necessary to carry on the activity and be consistent with existing conditions, use, and character of the area.
5. The facility shall be prohibited from conversion to residential use.

#### **H. Residential Lot Standards:**

1. Lots for each principal structure, as defined, shall be subject to and comply with the provisions of the Georgetown Minimum Lot Size Ordinance.
2. Lots to be used for multifamily dwellings, or other land use activities, shall also comply with 12 MRSA Section 4807-A if a surface or subsurface sewage disposal system is used.
3. A lot abutting a lake, pond, river, stream, tidal water, or wetland shall have a minimum shore frontage per dwelling unit measured in a straight line between the points of intersection of the property lines with the shoreline at normal high water elevation. The minimum shall be as follows:
  - a. Dwelling Unit
 

|                                            |                   |
|--------------------------------------------|-------------------|
| (1) Tidal areas or coastal wetlands        | 150-foot frontage |
| (2) Non-tidal areas or freshwater wetlands | 200-foot frontage |
  - b. Governmental, Institutional, Commercial, Industrial
 

|                                             |                   |
|---------------------------------------------|-------------------|
| (1) Tidal areas or coastal wetlands         | 200-foot frontage |
| (2) Non- tidal areas or freshwater wetlands | 300-foot frontage |
  - c. Public and Private Recreational Facilities
 

|                                                             |                   |
|-------------------------------------------------------------|-------------------|
| Tidal and non-tidal areas or coastal or freshwater wetlands | 200-foot frontage |
|-------------------------------------------------------------|-------------------|
4. The minimum width of any portion of any lot within 100 feet horizontal distance of the normal high-water line of a body of water or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot of the proposed use.
5. If more than one residential dwelling unit and/or more than one principal commercial or industrial structure is constructed on a single parcel, all dimensional requirements, as in Section 8.H.3, above, shall be met for each additional dwelling unit and/or principal structure.

#### **I. Roads and Driveways:**

The following standards shall apply to the construction of roads and/or driveways and drainage systems, culverts, and other related features.

1. Roads and driveways shall be set back at least 75 feet from the normal high-water line of water bodies, tributary streams, or the upland edge of a wetland unless no reasonable alternative exists as determined by the Planning Board. If no other reasonable alternative exists, the Planning Board may reduce the road and/or driveway setback requirement to no less than 50 feet upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body. Such techniques may include, but are not limited to, the installation of settling basins and/or the effective use of additional ditch

relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland. Any private road or driveway must be set back at least 25 feet from any cemetery.

On slopes of greater than 20 percent the road and/or driveway setback shall be increased by 10 feet for each 5 percent increase in slope above 20 percent.

This paragraph shall apply neither to approaches to water crossings nor to roads or driveways that provide access to permitted structures and facilities located nearer to the shoreline due to an operational necessity.

2. Existing public roads may be expanded within the legal road right-of-way regardless of their setback from a water body.
3. New roads and driveways are prohibited in a Resource Protection District except to provide access to permitted uses within the district, or as approved by the Planning Board upon a finding that no reasonable alternative route or location is available outside the district, in which case the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.
4. Road banks shall be no steeper than a slope of two horizontal to one vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control in Section 8.E.
5. Road grades shall be no greater than 10 percent except for short segments of less than 200 feet.
6. In order to prevent road surface drainage from directly entering water bodies, wetlands, or tributary streams, roads shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least 50 feet plus two times the average slope in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Road surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.
7. Ditch relief (cross drainage) culverts, drainage dips, and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow in the road or ditch gains sufficient volume or head to erode the road or ditch. To accomplish this, the following shall apply:
  - a. Ditch relief culverts, drainage dips, and associated water turnouts shall be spaced along the road at intervals no greater than indicated in the following table:

| Road Grade (percent) | Spacing (feet) |
|----------------------|----------------|
| 0-2                  | 250            |
| 3-5                  | 200-135        |
| 6-10                 | 100-80         |
| 11-15                | 80-60          |
| 16-20                | 60-45          |
| 21+                  | 40             |

- b. Drainage dips may be used in place of ditch relief culverts only where the road grade is 10 percent or less.
  - c. On road sections having slopes greater than 10 percent, ditch relief culverts shall be placed across the road at approximately a thirty degree angle downslope from a line perpendicular to the center line of the road.
  - d. Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective



functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.

9. Ditches, culverts, bridges, dips, water turnouts, and other storm-water runoff control installations associated with roads shall be maintained on a regular basis to assure effective functioning.

#### **J. Private Sewage Disposal Standards:**

1. General: The installation of any treatment tank, subsurface absorption area, or any holding tank constitutes either the installation of an individual sewage disposal system or a community sewer-age system and requires a permit from the Local Plumbing Inspector prior to beginning the installation of the system. For purposes of this section, the installation of an individual sewage disposal system or community sewerage system shall include the initial installation, replacement, alteration, or enlargement of any treatment tank, subsurface absorption area, or holding tank, unless the Department of Human Services determines that a permit is not required in a particular case.
2. Sewage Disposal: All sewage shall be disposed of by an approved method of collection, treatment, and disposal. Sewage shall not be disposed of in any manner that will create a nuisance. It shall not be discharged into any abandoned or unused well, or into any crevice, sink hole, or other opening, either natural or artificial, in a rock formation. Sewage shall not be discharged into any river, stream, lake, pond, or similar watercourse or any tidal waters unless a license is first secured from the Department of Environmental Protection as provided in 38 MRSA Section 413.
3. Application for Permits: Application for a permit to install an individual sewage disposal system or community sewerage system shall be made to the Local Plumbing Inspector, if required by the Maine Plumbing Code, by the owner or person performing or responsible for performing all labor in connection with the installation of the system and shall be made prior to the construction.
4. Site Considerations: Subsurface soil, bedrock, and groundwater conditions to depths of at least 4 feet or resistances for all subsurface sewage disposal facilities shall be explored and evaluated by a Licensed State Evaluator.
5. Test Pit: A test pit, excavated to a depth of 4 feet, to refusal, to impervious strata, or to the ground water table, shall be dug at a representative point within the proposed private sewage disposal area. A report of the test shall indicate the soil characteristics by strata, maximum ground water elevation, presence of bedrock or impervious strata, and the nature of bedrock if within 4 feet of the surface of the ground.
6. Impervious Layer, Groundwater, Bedrock: Disposal fields shall not be constructed in areas where the maximum groundwater table, bedrock, or restrictive layer is less than 2 feet below the bottom of the subsurface disposal system. Maximum groundwater table elevation shall be determined during the period of the year when groundwater table is at its highest elevation or from the groundwater characteristic of the soil type determined by the U.S. Department of Agriculture, Soil Conservation Service, and verified on-site by the soil scientist.
7. Surface Water: The ground surface of the disposal area and the land adjacent to the disposal area shall be sloped to prevent the accumulation of surface water and prevent erosion. Provision shall be made to minimize the flow of surface water over the disposal area.
8. Ground Slope: Disposal trenches shall not be installed on ground having a slope greater than 20 percent. The disposal areas shall be constructed on the natural contour of the ground.
9. Location of Facilities: Overboard discharge systems (sand filters and mechanical) shall be located at least 50 feet from any well or spring used as a domestic water supply, and at least 10 feet from any property line. The location of all other facilities shall be such as to provide between or among them and their components not less than the distances stated in the following table:

TABLE FOR LOCATION OF FACILITIES

| Daily Sewage Flow                                                                                | Less than 2,000 gallons |                      | In Excess of 2,000 gallons |                      |                       |
|--------------------------------------------------------------------------------------------------|-------------------------|----------------------|----------------------------|----------------------|-----------------------|
| Components                                                                                       | Treatment Tank (feet)   | Disposal Area (feet) | Treatment Tank (feet)      | Disposal Area (feet) | Building Sewer (feet) |
| Property Line                                                                                    | 10                      | 10                   | 20                         | 20                   | --                    |
| Buildings                                                                                        | 8                       | 20                   | 20                         | 40                   | --                    |
| Normal high water mark of any lake, pond, river, stream, or similar intermittent watercourse     | 100                     | 100                  | 100                        | 300                  | 100                   |
| Tidal Water (normal high water or inland edge of coastal wetlands as defined)                    | 100                     | 100                  | 100                        | 100                  | 75                    |
| Well or spring used as a domestic water supply                                                   | 100                     | 100                  | 100                        | 300                  | 100                   |
| Well or spring used as a domestic water supply with a daily water use in excess of 2,000 gallons | 100                     | 300                  | 100                        | 300                  | 100                   |
| Water supply line                                                                                | 10                      | 10                   | 10                         | 25                   | 10                    |
| Downhill slope steeper than:<br>one vertical to three horizontal (33 percent)                    | --                      | 50                   | --                         | 50                   | --                    |
| fifteen vertical to one hundred horizontal (15%)                                                 | --                      | 25                   | --                         | 25                   | --                    |

10. Privies, Chemical Toilets, etc.: Where water under pressure is not available, all human body wastes shall be disposed of by deposit in approved privies, chemical toilets, or other installations acceptable to the Department of Human Services. No such installations may be employed except upon showing the use of an adequate and approved method of disposing of the contents of the chemical toilet and upon showing of an adequate gray-water disposal technique.
11. Treatment: Water-carried sewage from bathrooms, kitchens, laundry fixtures, and other household plumbing shall pass through a septic or other approved treatment tank prior to its discharge into the soil.
12. Responsibility: The building contractor, owner, plumbing contractor, and disposal system installer are jointly responsible for compliance with these provisions and with the Maine Plumbing Code.
13. Abandoned Systems: Abandoned treatment, storage, and transfer facilities shall be disconnected from the building, pumped out, and filled with earth.
14. Overloading: No property shall be improved in excess of its capacity to absorb sewage effluent properly.
15. Installations: When there is insufficient lot area or improper soil conditions for adequate sewage disposal



for the building or land use proposed, and the Local Plumbing Inspector so finds, no permit shall be issued and no private sewage disposal system shall be installed. Where space or soil conditions are critical, no permit shall be issued until engineering data and test reports satisfactory to the Local Plumbing Inspector and/or the Department of Human Services have been submitted and approved.

16. Additional Requirements: Nothing contained in these provisions, nor in the Maine Plumbing Code, shall be construed to prevent the Department of Human Services from requiring compliance with higher requirements than those contained therein where such higher requirements are essential to maintain a safe and sanitary condition.
17. Cesspools, Dry Wells: No cesspools, pits, or dry wells shall be used for private sewage disposal.
18. Privies: Privies may be permitted in areas not served by community sewer facilities under the following conditions:
  - a. No plumbing of any kind shall be connected or discharged into the privy pit.
  - b. The privy shall be located at a minimum horizontal distance of 100 feet from the normal high water mark of a water body or upland edge of a wetland.
  - c. The bottom of the privy pit shall be at least 2 feet above bedrock and the ground water table at its highest point during the year, or have a watertight vault.

**K. Signs:** The following provisions shall govern the use of signs in the Limited Residential-Recreational District and the Resource Protection District:

1. Signs and billboards relating to goods and services sold on the premises shall be permitted, providing such signs shall not exceed 6 square feet in area, and shall not exceed two signs per premises. Billboards and signs relating to goods and services not rendered on the premises are prohibited.
2. Name signs shall be permitted, provided such signs shall not exceed two signs per premises.
3. Residential users may display a single sign not over 3 square feet in area relating to the sale, rental, or lease of the premises.
4. Signs relating to trespassing and hunting shall be permitted without restriction as to number provided that no sign shall exceed 2 square feet in area.
5. No sign shall extend higher than 20 feet above the ground.
6. Signs may be illuminated only by shielded, non-flashing lights.

**L. Soils:** All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impact, including severe erosion, mass soil movement, and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal, and commercial or industrial development and other similar intensive land uses, shall require a soils report, prepared by a State-certified soil scientist or geologist based upon an on-site investigation. Suitability considerations shall be based primarily on criteria employed in the National Cooperative Soil Survey as modified by on-site factors such as depth of water table and depth to refusal.

**M. Structures:**

1. All newly constructed, relocated, or expanded principal and accessory structures shall meet the following

setback schedule relative to the normal high water mark or upland edge of any coastal and/or freshwater wetlands and tributary streams:

a. Resource Protection District buffer zone as defined in Section 9.B.2:

| i. Lot Frontage (feet) | Minimum Setback (feet) | Lot Frontage (feet) | Minimum Setback (feet) |
|------------------------|------------------------|---------------------|------------------------|
| 200                    | 250                    | 301 - 310           | 195                    |
| 201 - 210              | 245                    | 311 - 320           | 190                    |
| 211 - 220              | 240                    | 321 - 330           | 185                    |
| 221 - 230              | 235                    | 331 - 340           | 180                    |
| 231 - 240              | 230                    | 341 - 350           | 175                    |
| 241 - 250              | 225                    | 351 - 360           | 170                    |
| 251 - 260              | 220                    | 361 - 370           | 165                    |
| 261 - 270              | 215                    | 371 - 380           | 160                    |
| 271 - 280              | 210                    | 381 - 390           | 155                    |
| 281 - 290              | 205                    | 391 - 400           | 150                    |
| 291 - 300              | 200                    | 401                 | 150                    |

- ii. Special Exception: A permit shall be issued for the construction of a single-family residence in a Resource Protection District if the applicant demonstrates that all the following conditions are met:
- (a.) There is no location on the property, other than a location within the Resource Protection District, where the structure can be built.
  - (b.) The lot on which the structure is proposed is undeveloped, and was established and recorded in the Sagadahoc County Registry of Deeds before the adoption of the Resource Protection District as defined by this amended Ordinance (18 November 1993).
  - (c.) The proposed location of all buildings, sewage disposal systems, and other improvements are:
    - located on natural ground slopes of less than 20 percent; and
    - located outside the floodway of the 100-year floodplain along rivers and artificially formed great ponds along rivers and outside the velocity zone in areas subject to tides, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency (FEMA) Flood Boundary and Floodway Maps and Flood Insurance Rate Maps; all buildings, including basements, are elevated at least one foot above the 100-year floodplain elevation; and the development is otherwise in compliance with any applicable municipal floodplain Ordinance.

If the floodway is not shown on the FEMA maps, it is deemed to be one-half the width of the 100-year floodplain. For purposes of this subparagraph, "floodway" means the channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation more than 1 foot in height, and "velocity zone" means an area of special flood hazard extending from offshore to the inland limit of the primary frontal dune along an open coast and any other area subject to high-velocity wave action from storms or seismic sources.

- (d.) The total ground-floor area of all principal and accessory structures is limited to a maximum of 1,500 square feet.

- (e.) All structures, except functionally water-dependent structures, are set back from the normal high-water line or upland edge of a wetland to the greatest practical extent, but not less than 75 feet. In determining the greatest practical extent, the Planning Board shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site's elevation in regard to the floodplain, and its proximity to moderate-value and high-value wetlands, as shown on the Town of

Georgetown Shoreland Zoning Map. The burden of proof is on the applicant; when in doubt, the applicant should provide measurements by a registered surveyor.

b. General Development District:

|                | Minimum Setback (feet) |
|----------------|------------------------|
| Dwelling Units | 75                     |
| All other      | 25                     |

c. Limited Residential-Recreational District: 75

2. All newly constructed, relocated, or expanded principal or accessory structures shall meet the following minimum setback requirements relative to the centerline of roads and lot lines:

a. Centerline of any public road or common road in an approved subdivision 50

b. All lot lines 20

3. The total area of all structures, parking lots, and other non-vegetated surfaces within the shore-land zone shall not exceed 20 percent of the lot or a portion thereof located within the shoreland zone, including land area previously developed, except in the General Development District, where lot coverage shall not exceed 70 percent.

4. Structures, including commercial radio-frequency receiving and transmission towers, shall not exceed 35 feet total height, exclusive of chimneys, antennae, and flag poles, from mean original grade at the downhill side of the structure.

**N. Timber Harvesting:** Timber harvesting shall conform with the following provisions:

1. Selective cutting of no more than 40 percent of the total volume of trees 4 inches or more in diameter measured at 4.5 feet above ground level on any lot in any 10-year period is permitted. In addition:

a. Within 75 feet horizontal distance of the normal high-water line of water bodies, the upland edge of a wetland, or a tributary stream, there shall be no clearcut openings and a well-distributed stand of trees and other vegetation, including existing ground, shall be maintained.

b. At distances greater than 75 feet horizontal distance of the normal high-water line of water bodies, the upland edge of a wetland, or a tributary stream, harvesting operations shall not create single clearcut openings greater than 10,000 square feet in the forest canopy. Where such openings exceed 5,000 square feet, they shall be at least 100 feet apart. Such clearcut openings shall be included in the calculation of total volume removal. For the purposes of these standards volume may be considered to be equivalent to basal area.

2. Timber harvesting operations exceeding the 40 percent limitation in paragraph 1 above may be allowed by the Planning Board upon a clear showing, including a forest management plan signed by a Maine licensed professional forester, that such an exception is necessary for good forest management and will be carried out in accordance with the purposes of this Ordinance. The Planning Board shall notify the Commissioner of the Department of Environmental Protection of each exception allowed within 14 days of the Planning Board's decision.

3. No accumulation of slash shall be left within 50 feet of the normal high-water line of a water body or coastal wetland. In all other areas slash shall either be removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than 4 feet above the ground. Any debris that falls below the normal high-water line of a water body or upland edge of a wetland shall be removed.

4. Timber harvesting equipment shall not use stream channels as travel routes except when:
  - a. Surface waters are frozen; and
  - b. The activity will not result in any ground disturbance.
5. All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds composed of gravel, rock, or similar hard surface which would not be eroded or otherwise damaged.
6. Skid trail approaches to water crossings shall be located and designated so as to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and area of exposed soil revegetated.
7. Except for water crossings, skid trails and other sites where the operation of machinery used in timber harvesting results in the exposure of mineral soil shall be located such that an unscarified strip of vegetation at least 75 feet in width for slopes up to 10 percent shall be retained between the exposed mineral soil and the normal high-water line of a water body or upland edge of a wetland. For each 10 percent increase in slope, the unscarified strip shall be increased by 20 feet. The provisions of this paragraph apply only to a face sloping toward the water body or wetland, provided, however, that no portion of such exposed mineral soil on a back face shall be closer than 25 feet from the normal high-water line of a water body or upland edge of a wetland.

**O. Water Quality Protection:** No activity shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials, including petroleum and petroleum by-products, of such nature, quantity, obnoxiousness, toxicity, or temperature that run off, seep, percolate, or wash into surface or ground waters so as to contaminate, pollute, or harm such waters, to cause unsightliness, or to be otherwise harmful to human, animal, plant, or aquatic life.

**P. Archaeological Sites:** Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on or eligible to be listed on the National Register of Historic Places, as determined by the permitting authority, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least 20 days prior to action being taken by the permitting authority. The permitting authority shall consider comments received from the Commission prior to rendering a decision on the application.

## **Section 9. ZONING DISTRICTS AND CRITERIA:**

**A. Districts:** The areas to which this Ordinance applies are divided into the following types of districts:

1. Resource Protection District
2. General Development District
3. Limited Residential-Recreational District

**B. Criteria for the Resource Protection District:** The Resource Protection District includes areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This district shall include the following areas when they occur within the limits of the shoreland zone, except those areas which are currently developed and areas which meet the criteria for General Development:

1. Areas rated as "moderate" or "high" value by the Maine Department of Environmental Protection and the Maine Department of Inland Fisheries and Wildlife and as shown on the Town of Georgetown Shoreland Zoning Map.
2. Areas within 250 feet horizontal distance of the upland edge of freshwater wetlands, salt marshes, and

salt meadows as defined in paragraph 1 above.

3. Areas of 2 or more contiguous acres with unstable soil subject to slumping, mass movement, or severe erosion lying on sustained slopes of 20 percent or greater, as shown on the Town of Georgetown Shoreland Zoning Map.
4. One-hundred-year flood plains adjacent to tidal waters as shown on FEMA's Flood Insurance Rate or Flood Hazard Boundary Maps.
5. Areas of 2 or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater or coastal wetland as defined, and which are not surficially connected to a water body during normal spring high water.
6. Other significant areas which should be included in this district to fulfill the purposes of this Ordinance.

**C. Criteria for the General Development District:** The general development district includes the following types of areas:

1. Areas of 2 acres or more devoted to intensive recreational, commercial, or industrial activities or combinations of such activities, including, but not limited to:
  - a. Transportation rights of way;
  - b. Communication and utility rights of way;
  - c. Areas used for the extraction or processing of mineral resources;
  - d. Areas devoted to manufacturing, fabrication, wholesaling, warehousing, or other commercial activities;
  - e. Areas devoted to retail trade and service activities;
  - f. Areas devoted to intensive recreational development and activities; and
  - g. Areas devoted to mixed or combined patterns of paragraphs a through f above.
2. Areas otherwise discernible as having patterns of intensive recreational, commercial, or industrial uses.

**D. Criteria for the Limited Residential-Recreational District:** The Limited Residential-Recreational District includes areas other than those included in the Resource Protection District, and which are used less intensively than those included in the General Development District.

**Section 10. DISTRICT BOUNDARIES:** All of the shorelands subject to this Ordinance, as provided in Section 9 above, are hereby placed in General Development, Resource Protection, or Limited Residential-Recreational Districts. Where uncertainty exists as to the exact location of the district boundary lines, the Board of Appeals shall be the final authority as to the location.

**A. General Development Districts:** See the Town of Georgetown Property Maps as revised April 11, 1992, and the Georgetown Shoreland Zoning Map.

GD-1 Five Islands: Bounded on the northeast by the northeasterly boundary of the land listed as Lot 46, Tax Map U-13, as revised April 1, 1985; on the west by the limits of the shoreland area as defined; and, on the south by the southwesterly boundary of Lot 56, Tax Map U-13.

GD-2 Gott's Cove: Bounded on the northwest by the northwesterly boundary of the land listed as Lot 9, Tax Map R-11, on the west by the limits of the shoreland area as defined; and, on the south by the southerly boundary of Lot 33A, Tax Map U-14.

GD-3 Robinhood: All the land designated as Lot 22 on Tax Map U-17 and the land designated as Lot 46A, Tax Map R-2.



GD-4 Bay Point: Bounded on the north by the northerly boundary of the land listed as Lot 49, Tax Map U-1, on the east by the limits of the shoreland area as defined; and on the south by the southerly boundary of Lot 40, Tax Map U-1.

GD-5 Harmon's Harbor: Bounded on the north by the northerly boundary of the land listed as Lot 5, Tax Map U-10, on the west by the limits of the shoreland area as defined; and on the south by the southerly boundary of Lot 14, Tax Map U-10.

GD-6 Route 127, Back River: All shoreland areas of Lot 17, Tax Map R-2, located southerly of the narrows between the upper and lower marsh on the east side of the property.

**B. Limited Residential-Recreational Districts:** All areas of the shorelands subject to this Ordinance not specifically placed in General Development or Resource Protection Districts.

**C. Resource Protection Districts:**

1. Areas defined in Sections 9.B.1 through 9.B.6.
2. Seguin Island - those portions within the limits of the shoreland zone as defined.
3. Perkins Island - those portions within the limits of the shoreland zone as defined.

**Section 11. NON-CONFORMANCE:**

**A. Purpose:** It is the intent of this Ordinance to promote land use conformities, except that lawful non-conforming conditions that existed before the effective date of this Ordinance or amendments thereto shall be allowed to continue, subject to the requirements set forth in this section.

**B. General**

1. Transfer of Ownership: Non-conforming structures, lots, and uses may be transferred, and the new owner may continue the non-conforming use or continue to use the non-conforming structure or lot, subject to the provisions of this Ordinance.
2. Repair and Maintenance: This Ordinance allows, without a permit, the normal upkeep and maintenance of non-conforming uses and structures including repairs or renovations which do not involve expansion of the non-conforming use or structure, and such other changes in a non-conforming use or structure as federal, state, or local building and safety codes may require.

**C. Non-Conforming Structures:**

1. Expansions: A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure. Further limitations:
  - a. After January 1, 1989, if any portion of a structure is less than the required setback from the normal high-water line of a water body or upland edge of a wetland, that portion of the structure shall not be expanded in floor area or volume by 30 percent or greater during the lifetime of the structure.
  - b. Construction or enlargement of a foundation beneath the existing structure shall not be considered an expansion of the structure, provided that the structure and new foundation are placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board, basing its decision on the criteria specified in subsection 2, below; that the completed foundation does not extend beyond the exterior dimensions of the structure; and that the foundation does not cause the structure to be elevated by more than 3 additional feet.



- c. No structure which is less than the required setback from the normal high-water line of a water body, tributary stream, or upland edge of a wetland shall be expanded toward the water body, tributary stream, or wetland.
2. Relocation: A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of the State of Maine Subsurface Wastewater Disposal Rules, or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming.

In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation.

3. Reconstruction or Replacement: Any non-conforming structure that is located less than the required setback from the normal high-water line of a water body, tributary stream, or upland edge of a wetland and that is removed, destroyed, or damaged by more than 50 percent of the market value of the structure before such damage, destruction, or removal, may be reconstructed or replaced provided that a permit is obtained within one year of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water setback requirement to the greatest practical extent as determined by the Planning Board in accordance with the purposes of this Ordinance. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity.

Any non-conforming structure that is damaged or destroyed by 50 percent or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place with a permit from the Code Enforcement Officer.

In determining whether the building reconstruction or replacement meets the water setback to the greatest practical extent the Planning Board shall consider, in addition to the criteria in paragraph 2 above, the physical condition and type of foundation present, if any.

4. Change of Use of a Non-conforming Structure: The use of a non-conforming structure may not be changed to another use unless the Planning Board, after receiving a written application, determines that the new use will have no greater adverse impact on the water body or wetland or on the subject or adjacent properties and resources than the existing use.

In determining that no greater adverse impact will occur, the Planning Board may require written documentation from the applicant regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, flood-plain management, archaeological and historic resources, and commercial fishing and maritime activities, and/or other functionally water-dependent uses.

#### **D. Non-Conforming Uses:**

1. Expansions: Expansions of non-conforming uses are prohibited, except that non-conforming residential uses may, with a permit from the Planning Board, be expanded within existing residential structures or within expansions of such structures as permitted in Section 11.C.1.a above.
2. Resumption Prohibited: A lot, building, or structure in or on which a non-conforming use is

discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a non-conforming use except that the Planning Board may, for good cause shown by the applicant, grant up to a 1-year extension to that time period. This provision shall not apply to the resumption of a use of a residential structure provided that the structure has been used or maintained for residential purposes during the preceding 5-year period.

3. Change of Use: An existing non-conforming use may be changed to another non-conforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to criteria listed in Section 11.C.4 above.

#### **E. Non-Conforming Lots:**

1. Non-Conforming Lots: A non-conforming lot of record as of the effective date of this Ordinance, or amendment thereto, may be built upon without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except lot size and frontage can be met. Variances relating to setback or other requirements not involving lot size or frontage shall be obtained by action of the Board of Appeals.
2. Contiguous Built Lots: If two or more contiguous lots or parcels are in a single or joint ownership of record at the time of adoption of this Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that the lots are in compliance with the State Minimum Lot Size Law and Subsurface Wastewater Disposal Rules.

If two or more principal uses or structures existed on a single lot of record on the effective date of this Ordinance, each may be sold on a separate lot provided that they are in compliance with the above referenced law and rules. When such lots are divided, each lot thus created must be as conforming as possible to the dimensional requirements of this Ordinance.

3. Contiguous Lots - Vacant or Partially Built:
  - a. If two or more contiguous lots or parcels are in single or joint ownership of record at the time of or since adoption or amendment of this Ordinance, if any of these lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments, and if one or more of the lots are vacant or contain no principal structure, the lots shall be combined to the extent necessary to meet the dimensional requirements.
  - b. This provision shall not apply to two or more contiguous lots, at least one of which is nonconforming, owned by the same person or persons on the effective date of this Ordinance and recorded in the Sagadahoc County Registry of Deeds, and if the lot can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules, and:
    - (1.) Each lot contains at least 100 feet of shore frontage and at least 20,000 square feet of lot area; or
    - (2.) Any lots that do not meet the frontage and lot size requirements of subparagraph 1 above are reconfigured or combined so that each new lot contains at least 100 feet of shore frontage and 20,000 square feet of lot area.

## Section 12. LAND USES PERMITTED AND PROHIBITED:

- A. Land uses are permitted in each district as set forth in the table below in conformance with Sections 8, 10, and 13. B.4 of this Ordinance and any other applicable Federal, State, and local laws and regulations.
- B. When the word "yes" appears after a land use in a district, this means that the use is permitted without application and issuance of a permit, provided that the establishment and maintenance of that land use is in conformance with the provisions of Section 8 of this Ordinance.

Where the word "no" appears, this means that the use is not permitted.

Where the words "PB Permit" appear, this means that the use may be permitted after a review and approval of the Planning Board pursuant to Section 13.B.6 and in conformance with Sections 8 and 13.B.4 of this Ordinance.

Where the words "CEO Permit" appear, this means that the use may be permitted after review and approval of the Code Enforcement Officer (CEO) pursuant to Section 13.B.5 and in conformance with Sections 8 and 13.B.4 .

Where the words "LPI Permit" appear, this means that the use may be permitted by a Local Plumbing Inspector.

**TABLE OF LAND USES**

|     | Land Use                                                                                       | Resource<br>Protection<br>District | Limited<br>Residential-<br>Recreational | General<br>Development<br>District |
|-----|------------------------------------------------------------------------------------------------|------------------------------------|-----------------------------------------|------------------------------------|
| 1.  | Non-intensive recreational uses not requiring structures, such as hunting, fishing, and hiking | yes                                | yes                                     | yes                                |
| 2.  | Motorized vehicular traffic on roads and trails, and snowmobiling                              | yes                                | yes                                     | yes                                |
| 3.  | Forest management activities except for timber harvesting                                      | yes                                | yes                                     | yes                                |
| 4.  | Timber harvesting *                                                                            | CEO Permit                         | CEO Permit                              | yes                                |
| 5.  | Fire prevention activities                                                                     | yes                                | yes                                     | yes                                |
| 6.  | Wildlife management practices                                                                  | yes                                | yes                                     | yes                                |
| 7.  | Soil and water conservation practices                                                          | yes                                | yes                                     | yes                                |
| 8.  | Mineral exploration *                                                                          | yes                                | yes                                     | yes                                |
| 9.  | Surveying and resource analysis                                                                | yes                                | yes                                     | yes                                |
| 10. | Emergency operations as defined                                                                | yes                                | yes                                     | yes                                |
| 11. | Harvesting of wild crops                                                                       | yes                                | yes                                     | yes                                |
| 12. | Agriculture *                                                                                  | PB Permit                          | yes                                     | yes                                |

|     |                                                                                                                                           |            |            |            |
|-----|-------------------------------------------------------------------------------------------------------------------------------------------|------------|------------|------------|
| 13. | Principal structures *                                                                                                                    |            |            |            |
|     | Dwelling units                                                                                                                            | PB Permit  | PB Permit  | PB Permit  |
|     | Commercial structures                                                                                                                     | no         | no         | PB Permit  |
|     | Industrial structures                                                                                                                     | no         | no         | PB Permit  |
| 14. | Structures accessory to permitted uses                                                                                                    | CEO Permit | CEO Permit | CEO Permit |
| 15. | Road construction *                                                                                                                       | PB Permit  | yes        | yes        |
| 16. | Small non-residential facilities for educational, scientific or nature interpretation purposes                                            | PB Permit  | CEO Permit | CEO Permit |
| 17. | Public and private parks and recreation areas involving minimal structural development                                                    | PB Permit  | yes        | yes        |
| 18. | Campgrounds                                                                                                                               | no         | PB Permit  | PB Permit  |
| 19. | Piers, docks, wharves, breakwaters, causeways, marinas, bridges over 20 feet in length, and uses projecting into water bodies or wetlands |            |            |            |
|     | Temporary                                                                                                                                 | CEO Permit | CEO Permit | CEO Permit |
|     | Permanent                                                                                                                                 | PB Permit  | PB Permit  | PB Permit  |
| 20. | Clearing for approved construction                                                                                                        | CEO Permit | yes        | yes        |
| 21. | Essential services accessory to permitted uses                                                                                            | yes        | yes        | yes        |
| 22. | Private sewage disposal systems                                                                                                           | LPI Permit | LPI Permit | LPI Permit |
| 23. | Public utilities, including sewage collection & treatment facilities                                                                      | PB Permit  | PB Permit  | PB Permit  |
| 24. | Signs *                                                                                                                                   | yes        | yes        | yes        |
| 25. | Filling or other earth-moving activity of less than 10 cubic yards                                                                        | CEO Permit | yes        | yes        |
| 26. | Filling or other earth-moving activity of more than 10 cubic yards, other than road construction                                          | PB Permit  | CEO Permit | CEO Permit |

\* - Subject to specific Land Use Standards, Section 8

## **Section 13. ADMINISTRATION:**

### **A. Creation of Administering Bodies and Officials:**

1. Planning Board: A Planning Board is hereby created in accordance with the provisions of Article VIII-A of the Maine State Constitution.
2. Code Enforcement Officer:
  - a. There is hereby created the office of Code Enforcement Officer (CEO) who shall be appointed or reappointed annually by July 1 by the municipal officers.
  - b. No municipal officer or member of the Board of Appeals or the Planning Board may serve as a Code Enforcement Officer, nor may the spouse of any such official.
  - c. It shall be the duty of the Code Enforcement Officer to:
    - i. enforce all provisions of this Ordinance enacted pursuant to 38 MRSA Sections 435-449;
    - ii. perform other duties as required by municipal Ordinance;
    - iii. advise applicants as to whether additional approval is required by other municipal officials or by State agencies and the procedures necessary to obtain such approval; and
    - iv. keep a complete record of transactions relating to his office in the same place as Planning Board records are kept.
  - d. The compensation of the Code Enforcement Officer shall be determined by the municipal officers.
  - e. The Code Enforcement Officer shall have the power to order all work stopped on construction or alteration or repair of buildings or sites when such work is being done in violation of any ordinance relating thereto, or in violation of the Shoreland Zoning Ordinance.
3. Board of Appeals: There is hereby created a Board of Appeals in accordance with 30-A MRSA Section 2691. The Board of Appeals is vested with the authority to hear any appeal by any aggrieved party, from any decision, rule, or failure to act of the Planning Board or CEO arising out of the administration of this Ordinance.

### **B. Permits:**

1. Permits Required:
  - a. After the effective date of this Ordinance, no person shall commence any use of land or structure requiring a permit in the district in which it would occur, or expand, change, or replace an existing non-conforming use or structure, or renew a discontinued non-conforming use without first obtaining a permit.
  - b. Except as specified in subsection d below, a permit issued by the Planning Board shall be required prior to the following:
    - i. the construction or placement of any new or relocated principal structure;
    - ii. the expansion of a conforming principal structure which results in an increase in the ground area covered by the structure, whether such expansion is supported from the building or by

- posts or foundation wall, or an increase in the height of the structure;
  - iii. the expansion of a non-conforming principal structure which results in an increase in floor area or volume subject to the limitations specified in section 11.C.1;
  - iv. the modification of an existing principal structure which results in an increase in the number of dwelling units or bedrooms in the structure; and
  - v. other uses and activities listed in Section 12, Table of Land Use.
- c. Except as specified in subsection d below, a permit issued by the Code Enforcement Officer shall be required prior to the following:
- i. the construction or placement of any new or relocated accessory structure for repair or maintenance of boats, equipment, or machinery;
  - ii. the expansion of a conforming accessory structure which results in an increase in the ground area covered by the structure;
  - iii. the expansion of a non-conforming accessory structure which results in an increase in floor area or volume subject to the limitations specified in Section 11.C.1; and
  - iv. other uses and activities listed in Section 12, Table of Land Use.
- d. This Ordinance shall apply to, but no permit is required for, the following:
- i. a shelter for a small household pet, such as a cat or a dog;
  - ii. a detached garden, tool, utility, or storage shed which does not exceed 100 square feet of floor area;
  - iii. a temporary roadside stand used for sale of flowers, vegetables, fruit, or similar produce which does not exceed 100 square feet of floor area and which remains in place for less than 6 months in any period of 12 consecutive months;
  - iv. roofs constructed without attachment to the ground and used exclusively to provide weather shelter to doorways or steps; and
  - v. temporary enclosures for the repair or maintenance for boats, equipment, or machinery.

## 2. Permit Application:

- a. Applications for permits shall be submitted in writing. The Code Enforcement Officer or Planning Board may require the submission of whatever information is necessary to determine conformance with the provisions of this Ordinance.
- b. Applications for permits for construction, expansion, or modification of principal or accessory structures shall be on forms provided for this purpose and available from the Planning Board or Code Enforcement Officer. Permit fees are listed in the Building Permit Ordinance.
- c. All applications for permits for new or relocated principal structures and for permits for expansions or modifications of existing principal structures which would result in an increase in the number of dwelling units or an increase in the volume of waste discharged to a subsurface waste disposal system shall include written evidence of compliance with the Minimum Lot Size Ordinance.



- d. All applications for newly constructed, placed, relocated, or expanded structures shall include evidence of compliance with the Floodplain Management Ordinance of the Town of Georgetown, if applicable.
3. Plumbing Permit Required Prior to Land Use Permit: No permit shall be issued for any structure or use involving the construction, installation, or alteration of plumbing facilities unless a permit for such facilities has been secured by the applicant or his authorized agent, according to the requirements of this Ordinance.
4. Procedure for Administering Permits: Upon receipt of a written application, the Planning Board or Code Enforcement Officer, as indicated in Section 13, shall notify the applicant in writing either that the application is a complete application or, if the application is incomplete, the specific additional material needed to make it a complete application. All applications shall be either approved or denied in writing within 30 days of receiving a completed application, including all information requested. Permits shall not be denied if the proposed use is found to be in conformance with the provisions of this Ordinance. Permits may be made subject to reasonable conditions to protect and preserve the public's health, safety, and general welfare and to ensure conformity with the purposes and provisions of this Ordinance and other applicable Town ordinances and State laws. If a permit is denied, the reasons for the denial shall be stated in writing. An appeal to the Board of Appeals or Planning Board from an approval or denial of an application shall be made within 30 days of the approval or denial.
5. Permits Issued by the Code Enforcement Officer: The Code Enforcement Officer shall approve or deny those applications on which he is empowered to act as shown in Section 13. Approval shall be granted only if the proposed use is in conformance with the provisions of this Ordinance, in particular Section 9.
6. Permits Issued by the Planning Board: The Planning Board shall approve or deny those applications on which it is empowered to act as stated in this Ordinance. The Planning Board shall, after the submission of a complete application including all information requested, grant a permit if it makes a positive finding based on the information presented to it that, except as specifically exempted in this Ordinance, the proposed use:
  - a. will not result in unsafe or unhealthful conditions;
  - b. will not result in erosion or sedimentation;
  - c. will not result in water pollution;
  - d. will not result in damage to spawning grounds, fish, aquatic life, bird and other wildlife habitat;
  - e. will conserve shoreland vegetation;
  - f. will conserve visual points of access to waters as viewed from public facilities;
  - g. will conserve actual points of public access to waters;
  - h. will avoid problems associated with flood plain development and use; and,
  - i. is in accordance with the provisions of Section 8 of this Ordinance.
7. Permit Expiration: A permit will expire if no substantial construction has begun within one year from the date of approval. Prior to expiration, a request for an extension will be considered. After expiration, a request for a new permit will be considered. Substantial construction shall mean the completion of at least thirty percent of a permitted structure measured as a percentage of estimated total cost.

### **C. Appeals and Variances:**

1. Appeals to the Board of Appeals:
  - a. Any party aggrieved by a decision of the Planning Board or CEO may appeal to the Board of Appeals. Such appeal shall be in writing and shall be submitted to the Board of Appeals within 30 days of the decision that is the subject of the appeal.

- b. Such an appeal shall contain a short and plain statement showing that the aggrieved party is entitled to relief and shall cite the findings of the Planning Board or CEO which are challenged as erroneous. Such an appeal shall clearly set forth either the findings of fact made by the Planning Board or CEO which the party challenges as erroneous; or the specific provision of the Ordinance the application or interpretation of which is challenged as erroneous; or, both said facts and provisions of the Ordinance.
  - c. Within 30 days of the receipt of an appeal:
    - i. in the event that the Planning Board's or CEO's interpretation or application of a provision of the Ordinance is challenged, the Board of Appeals, upon finding that the Planning Board or CEO acted erroneously, shall make a final decision that the permit shall or shall not be granted and shall so notify the Planning Board and CEO and all parties to the appeal;
    - ii. in the event that one or more findings of fact made by the Planning Board or CEO are challenged as erroneous, the Board of Appeals shall make its findings of fact, make a final decision that the permit shall or shall not be granted, and shall so notify the Planning Board and CEO and all parties to the appeal.
  - d. All decisions of the Board of Appeals shall be in writing and shall specify why a permit shall or shall not be granted, referring to specific sections of this Ordinance and to the Board of Appeals' findings of fact.
  - e. Hearings by the Board of Appeals shall be held and conducted in such a manner as to provide every party the opportunity to present his case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts.
  - f. When the Planning Board's or CEO's decision is reversed, the Board of Appeals shall return the matter to the Planning Board or CEO for issuance or denial of the permit.
  - g. When a decision of the Planning Board or CEO is reversed, the Board of Appeals may direct that the Planning Board or CEO attach such conditions as are deemed necessary or proper to carry out the purposes of such Ordinance or as may be otherwise necessary to protect and preserve the public's health, safety, and general welfare.
  - h. The Board of Appeals may reconsider any decision within 30 days of its prior decision. The Board may conduct additional hearings and receive additional evidence and testimony.
2. Appeals to Superior Court: An appeal may be taken to Superior Court from any decision of the Board of Appeals in accordance with State law.
3. Variances: *not for lot size*
- a. Variances may be granted only for shore/wetland setback (Section 8.M.1); road/lot line setback (Section 8.M.2); and lot coverage (Section 8.M.3).
  - b. Whenever a variance is applied for, the Board of Appeals may grant a variance from the strict application of the provisions of Section 8. M.1 - 3 under the following conditions:
    - i. the strict application of the terms of the above-noted provisions of this Ordinance to the petitioner and the petitioner's property would cause undue hardship. The words "undue hardship" as used in this subsection mean:

- (a.) that the land in question cannot yield a reasonable return unless a variance is granted;
  - (b.) that the need for a variance is due to the unique circumstances of the property and not to the general conditions of the neighborhood;
  - (c.) that granting a variance will not alter the essential character of the locality; and
  - (d.) that the hardship is not the result of action taken by the applicant or a prior owner.
- ii. the proposed use would meet the provisions of Section 13.B.6. a - h, if the variances were granted; and
  - iii. any waiver or approval to use a non-conforming lot required by State law has been obtained.
- c. The findings of fact required by b.i-iii above shall be made in writing and shall set forth in detail the facts upon which such findings are based.
  - d. A variance shall not be granted to permit a use or structure otherwise prohibited.
  - e. A copy of all variances granted shall be submitted to the Planning Board and to the Department of Environmental Protection within 14 days of their being granted and notification is sent to the applicant.
  - f. When a variance is allowed, the Board of Appeals shall report the specifications of the variance to the Planning Board and the Planning Board shall issue a permit which conforms to the terms of the variance.

#### **D. Enforcement:**

- 1. Nuisances: Any violation of this Ordinance shall be deemed to be a nuisance.
- 2. Code Enforcement Officer: It shall be the duty of the Code Enforcement Officer to enforce provisions if he shall find that any provision of this Ordinance, or any ordinance or law which it is his duty to enforce, is being violated; he shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings, structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be maintained as a permanent record.
- 3. Legal Actions: When the above action does not result in the correction or abatement of the violation or nuisance condition, the Municipal Officers, upon notice from the Code Enforcement Officer, are hereby authorized and directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the impositions of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the Town of Georgetown.
- 4. Fines: Any person who continues to violate any provision of this Ordinance after receiving notice of such violation shall be penalized in accordance with 30-A MRSA Section 4452.

**Section 14. DEFINITIONS:** Terms not defined herein shall have their customary dictionary meaning. As used in this Ordinance, the following definitions shall apply:

#### **A. Water Related Terms:**

Normal High Water Line: That line which is apparent from visible markings, changes in the character of

soils due to prolonged action of the water, or changes in vegetation, which marks the land subject to tidal action during the maximum spring tide level (in the absence of winds exceeding 15 miles per hour) as identified in the tide tables published by the National Ocean Service, and which distinguishes between predominantly aquatic and predominantly terrestrial land. For wetlands adjacent to rivers and mapped ponds, it is the upland edge of the wetland, not the edge of the water.

#### **B. Forest Management Terms:**

1. Forest Management Activities: Timber cruising and other forest resources evaluation activities, management planning activities, insect and disease control, timber stand improvement, pruning, timber harvesting and other forest harvesting, regeneration of forest stands, and other similar associated activities, but not the construction or creation of roads.
2. Timber Harvesting: The cutting and removal of trees from their growing site, and the attendant operation of cutting and skidding machinery but not the construction or creation of roads. Timber harvesting does not include clearing land for approved construction or cutting firewood or logs for home use.
3. Basal Area: The area of cross-section of a tree stem at 4.5 feet above ground level inclusive of bark.

#### **C. Road Terms:**

Road: A route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles.

#### **D. Wetland Terms:**

1. Coastal Wetland: Coastal Wetlands means all tidal and subtidal lands; all lands below any identifiable debris line left by tidal action; all lands with vegetation present that is tolerant of salt water and occurs primarily in a salt-water or estuarine habitat; and any swamp, marsh, bog, beach, flat, or other contiguous low land which is subject to tidal action during the maximum spring tide level as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes.
2. Freshwater Wetland: Freshwater swamps, marshes, bogs, and similar areas, other than forested wetlands, which are:
  - a. Of 10 or more contiguous acres; or of less than 10 contiguous acres and adjacent to a surface water body, excluding any river, stream, or brook such that, in a natural state, the combined surface area is in excess of 10 acres; and
  - b. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

3. Forested Wetland: a freshwater wetland dominated by woody vegetation that is 6 meters tall or taller.
4. Tributary stream: a channel between defined banks created by the action of surface water, whether intermittent or perennial, and which is characterized by the lack of upland vegetation or presence of aquatic vegetation and by the presence of a bed devoid of topsoil containing waterborne deposits on exposed soil, parent material or bedrock, and which flows to a water body or wetland as defined. This definition applies only to that portion of the tributary stream located within the shoreland zone of the receiving water body or wetland.

5. Water body: any great pond, river, stream or tidal area.
6. Wetland: a freshwater or coastal wetland.
7. Shore: the upland edge of a water body or wetland.
8. Upland Edge of a Coastal Wetland: the upland edge of a coastal wetland at any specific location is the farthest inland of the following two lines:
  - a. The line between (1) lands with vegetation present that is tolerant of salt water and occurs primarily in a salt-water or estuarine habitat and (2) lands in which such vegetation is not present, or
  - b. The line between (1) lands inundated by tidal water (in the absence of winds exceeding 15 miles per hour) on the date or dates of the maximum spring tide in the calendar year in which the determination of the upland edge is made and (2) lands not so inundated. The date or dates on which the maximum spring tide occurs in the reference year shall be as identified in tide tables for Portland, Maine, published by the National Ocean Service.

**E. Structure Terms:**

1. Structure: Anything built for the support, shelter, or enclosure of persons, animals, goods, or property of any kind, exclusive of fences and steps, stairs, or wheelchair ramps used exclusively to gain access to a building doorway.
2. Principal Structure: A structure in which a primary use of the lot is conducted.
3. Accessory Structure: A structure of a nature customarily incidental or subordinate to that of a principal structure or a primary use to which the premises are devoted, including structures necessary for the conduct of home related occupations.
4. Dwelling Unit: A room or group of rooms designed and equipped for use as a permanent, seasonal, or temporary living quarters for one household, including a household comprised of one person. The term shall include mobile homes.
5. Piers, Docks, Wharves, Breakwaters, Causeways, Marinas, Bridges over 20 Feet in Length, and Uses Projecting Into Water Bodies, Wetlands, and Tributary Streams:
  - a. Temporary: Structures which remain in the water or wetland for less than 7 months in any period of 12 consecutive months.
  - b. Permanent: Structures which remain in the water or wetland for 7 months or more in any period of 12 consecutive months.
6. Non-Conforming Structure: A structure which does not meet any one or more of the following dimensional requirements: setback, height, or lot coverage, but which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.
7. Non-Conforming Lot: A lot that does not meet the requirements of this Ordinance or the requirements specified in the Georgetown Minimum Lot Size Ordinance, but which is allowed solely because it was in lawful existence at the time these Ordinances or subsequent amendments took effect.
8. Acre: For the purposes of this Ordinance, an acre shall be considered to be 43,560 square feet, and all portions of an acre shall use the same square footage definition.

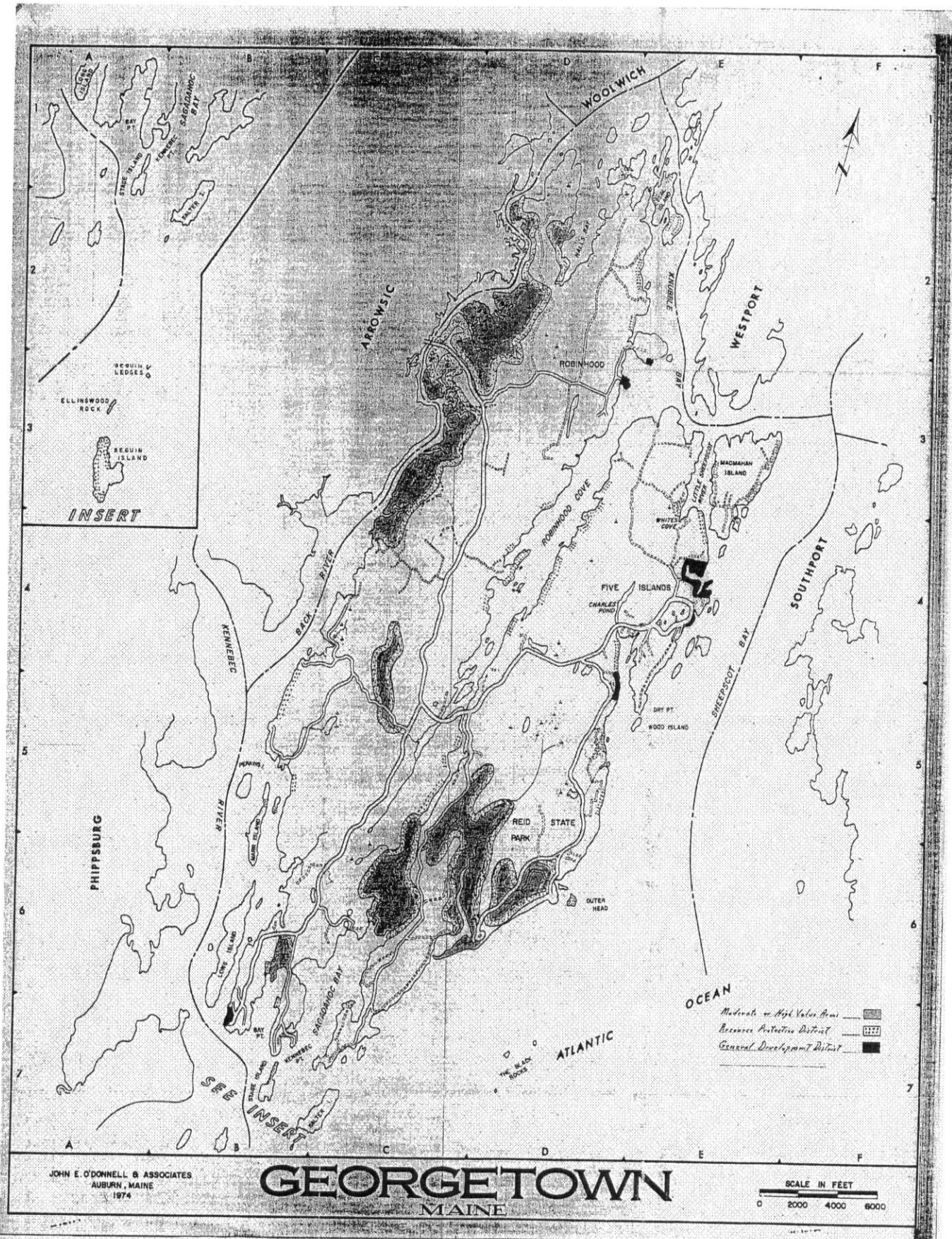


9. Floor Area: The sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls, plus the horizontal area of any unenclosed portions of a structure such as porches and decks.
10. Volume of a Structure: The volume of all portions of a structure enclosed by a roof and fixed exterior walls as measured from the exterior faces of these walls and roof.
11. Height of a Structure: The vertical distance between the mean original grade at the downhill side of the structure and the highest point of the structure.
12. Temporary Enclosure or Roadside Stand: One that will remain in place for no more than 6 months in any period of 12 consecutive months.

**F. Other Terms:**

1. Aggrieved Party: A person whose land is directly or indirectly affected by the grant or denial of a permit or variance under this Ordinance, a person whose land abuts land for which a permit or variance has been granted, or a group of five or more citizens of the municipality who represent an interest adverse to the grant or denial of such permit or variance.
2. Emergency Operations: Operations conducted for the public health, safety, or general welfare, such as protection of resources from immediate destruction or loss, law enforcement, and operations to rescue human beings and livestock from the threat of destruction or injury.
3. Essential Services: Gas, electrical, communications facilities, steam, fuel or water supply, transmission, or distribution systems.
4. Lot: A parcel of land described in a deed, plot plan, or similar legal document that has been legally recorded in the Sagadahoc County Registry of Deeds.
5. Center Line of a Road: A point measured horizontally midway between the extreme outside edges of a public right of way, or of the land held in government ownership, if the road is a public road; or, if the road is not a public road, a point measured horizontally midway between the extreme outside edges of the travel surface of soil, gravel, asphalt, or other surface material.
6. Setback from a Lot Line: The minimum distance between the property line and the nearest part of a structure.
7. Setback from the Center Line of a Road: The minimum horizontal distance from the center line of a road to the nearest part of a structure.
8. Lot Area: The area of land enclosed within the boundary lines of a lot, minus land below the normal high-water mark of tidal waters or upland edge of coastal or freshwater wetlands and areas beneath roads serving more than two lots.
9. Lot Coverage: The total area of all structures, parking lots, and other non-vegetated surfaces, within the shoreland zone divided by the lot area within the shoreland zone, calculated as a percent.
10. Developed Areas: Those areas, as of the effective date of this amended Ordinance (18 November 1993), which include the actual specific developed area such as an established principal structure and associated accessory structures (including driveways, gardens and mowed areas but not including any undeveloped areas that may be on the lot); areas already approved for subdivision, or development; or for which there is a valid State-approved wastewater disposal design.
11. Shoreline: the upland edge of a wetland.





JOHN E. O'DONNELL & ASSOCIATES  
AUBURN, MAINE  
1974

# GEORGETOWN MAINE

SCALE IN FEET  
0 2000 4000 6000

Map made to DNR  
in 1974  
D. B. B.